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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,162	10/11/2001	Nicolo F. Machi	055-00-002	9108

7590 12/23/2003
Larry J. Palguta
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3520 Westmoor Street
South Bend, IN 46628

EXAMINER	
NGUYEN, PHILLIP	
ART UNIT	PAPER NUMBER
2828	

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,162

Applicant(s)

MACHI ET AL.

Examiner

Phillip Nguyen

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AW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.


- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8. 6) ☐ Other:

DETAILED ACTION

Response to Argument

1. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites "a conical reflector positioned between the means for receiving and combining infrared light and said aspheric lens" which is indefinite because it seems that the combining means is the conical reflector which receives and combines lights into a single beam. It is suggested that the claim should be rewritten as -- The high intensity infrared light of claim 1, wherein the combining means further comprises a conical reflector--.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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4. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1^{1/2} are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al. ('650).

With respect to claim 1, Brown discloses in Figure 4 an infrared light, comprising a housing 12; two or more laser infrared diodes 64 arranged inside the housing; means comprising a heat sink 34, 86 and 122 in Figures 1, 5, and 6, respectively for receiving heat from laser infrared diodes; means for collecting and transmitting 68 the infrared light radiated by said laser; means for receiving and combining the infrared light 26 from said optical transmitting means into a single beam of light and radiate the beam of light from a light emitting surface; and an aspheric lens 54 (Figure 1) situated such that the focal plane of said aspheric lens is placed at the light emitting surface of said combining means.

With respect to claim 2, Brown discloses means 36 for controlling the electrical power applied to laser diodes.

With respect to claim 3, Brown discloses the controlling means is located remotely from said housing.

With respect to claim 4, Brown discloses the claimed invention, in Figures 1 and 4, mountings points for aspheric lens as well as other components in order to keep them intact.

With respect to claim 5, Brown discloses the conical reflector inside sell 26.

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With respect to claim 6, Brown discloses the claimed invention as combination of claims 1-4.

With respect to claims 7-14, since Brown discloses the product, it is inherent product by process for performing the method as recited in the claims.

Citation of Pertinent References

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

The patent to Brown et al. discloses Laser Flashlight, U.S. Patent No. 6142650

Communication Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Nguyen whose telephone number is 703-305-4966. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip, can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are:


TC2800 Official Before-Final RightFAX - (703) 872-9318

TC2800 Official After-Final RightFAX - (703) 872-9319

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0658.

December 3rd, 2002

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